

AMENDED IN SENATE MAY 28, 2009

**SENATE BILL**

**No. 60**

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**Introduced by Senator Cedillo**

January 20, 2009

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An act to amend Section 40000.11 of, to amend, repeal, and add Sections 12801.5 and 14610.7 of, and to add Sections 1653.6 and 12801.1 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 60, as amended, Cedillo. Vehicles: driver's licenses.

(1) Existing law requires the Department of Motor Vehicles, upon proper application, to issue driver's licenses and identification cards.

This bill would require the department, in the issuance of driver's licenses and identification cards, to issue licenses and cards that are in compliance with specified requirements of the federal Real ID Act of 2005 (Public Law 109-13).

The bill would require the department, *on or before January 1, 2011*, to issue a driver's license that permits driving and is acceptable by a federal agency for any official purpose, as certified by the federal Secretary of Homeland Security, to an applicant who is in compliance with specified requirements of specified provisions of ~~the~~ *that* federal act, ~~no later than 240 days after the United States Secretary of Homeland Security approves the state's implementation plan of the federal act.~~

The bill also would require the department, *on or before January 1, 2011*, in compliance with the federal act, ~~and no later than 240 days after the United States Secretary of Homeland Security approves the state's implementation plan,~~ to issue a driver's license that permits driving, and is not acceptable by a federal agency for federal identification or for any other official purpose, to an applicant who does

not provide valid documentary evidence of lawful status under the federal act.

(2) Existing law requires the department to require every applicant for an original driver's license or identification card to submit satisfactory proof that the applicant's presence in the United States is authorized under federal law and prohibits the department from issuing a driver's license or identification card to a person who does not do so. Existing law requires the department to adopt regulations, including procedures for verifying citizenship or legal residency of applicants for driver's licenses and identification cards, and to make a specified annual report.

This bill would repeal those requirements on the date that the Secretary of State receives a notice from the Director of Motor Vehicles ~~indicating the date that the department shall commence~~ *has commenced* the issuance of driver's licenses in compliance with the implementation of the federal Real ID Act of 2005.

(3) Existing law makes it a misdemeanor for a person to knowingly assist in obtaining a driver's license or identification card for a person whose presence in the United States is not authorized under federal law.

This bill would repeal that provision, and, instead, would make it a misdemeanor to knowingly assist in obtaining documents for another person in violation of the federal Real ID Act of 2005. These changes would become operative on the date of receipt by the Secretary of State of the notice described above.

Because this bill would create a new crime, this bill would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(5) The bill would provide that its provisions are severable.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. This act shall be known, and may be cited, as the  
2 California Real ID Act of 2009.

1 SEC. 2. The Legislature intends by the enactment of this act  
2 to accomplish the following:

3 (a) Meet or exceed the document and issuance standards set  
4 forth in the federal Real ID Act of 2005 (Public Law 109-13) to  
5 ensure that California has a federally recognized and acceptable  
6 driver's license and identification card.

7 (b) Provide driver's licenses that permit driving, but cannot be  
8 used for federal identification purposes, consistent with the federal  
9 Real ID Act of 2005, to California drivers who cannot meet the  
10 minimum identity confirmation requirements necessary to obtain  
11 a federally recognized driver's license or identification card.

12 SEC. 3. Section 1653.6 is added to the Vehicle Code, to read:

13 1653.6. In the issuance of a driver's license and identification  
14 card under this code, the department shall issue a driver's license  
15 and an identification card that are in compliance with Section 202  
16 of Title II of the federal Real ID Act of 2005 (Public Law 109-13).

17 SEC. 4. Section 12801.1 is added to the Vehicle Code, to read:

18 12801.1. (a) ~~No later than 240 days after the United States~~  
19 ~~Secretary of Homeland Security approves the state's~~  
20 ~~implementation plan of the federal Real ID Act of 2005 (Public~~  
21 ~~Law 109-13) On or before January 1, 2011,~~ the department shall  
22 issue a driver's license that permits driving and is acceptable by  
23 a federal agency for any official purpose, as certified by the  
24 Secretary of Homeland Security, to an applicant who is in  
25 compliance with the requirements of Section 202 of Title II of the  
26 federal Real ID Act of 2005.

27 (b) ~~The On or before January 1, 2011, the~~ department, in  
28 compliance with the federal Real ID Act of 2005, ~~and no later than~~  
29 ~~240 days after the United States Secretary of Homeland Security~~  
30 ~~approves the state's implementation plan,~~ shall issue a driver's  
31 license that permits driving, and is not acceptable by a federal  
32 agency for federal identification or for any other official purpose  
33 pursuant to paragraph (11) of subsection (d) of Section 202 of Title  
34 II of the federal Real ID Act of 2005, to an applicant who does not  
35 meet the requirements of subparagraph (B) of paragraph (2) of  
36 subsection (c) of Section 202 of that federal act.

37 SEC. 5. Section 12801.5 of the Vehicle Code is amended to  
38 read:

39 12801.5. (a) Notwithstanding any other provision of law, the  
40 department shall require an applicant for an original driver's license

1 or identification card to submit satisfactory proof that the  
2 applicant's presence in the United States is authorized under federal  
3 law.

4 (b) The department shall not issue an original driver's license  
5 or identification card to a person who does not submit satisfactory  
6 proof that the applicant's presence in the United States is authorized  
7 under federal law.

8 (c) The department shall adopt regulations to carry out the  
9 purposes of this section, including procedures for, but not limited  
10 to, (1) verifying that the applicant's presence in the United States  
11 is authorized under federal law, (2) issuance of a temporary license  
12 pending verification of the applicant's status, and (3) appeal  
13 hearings from a denial of a license, temporary license, or  
14 identification card.

15 (d) On January 10 of each year, the department shall submit a  
16 supplemental budget report to the Governor and the Legislature  
17 detailing the costs of verifying the citizenship or legal residency  
18 of applicants for driver's licenses and identification cards, in order  
19 for the state to request reimbursement from the federal government.

20 (e) Notwithstanding Section 40300 or any other provision of  
21 law, a peace officer shall not detain or arrest a person solely on  
22 the belief that the person is an unlicensed driver, unless the officer  
23 has reasonable cause to believe the person driving is under 16  
24 years of age.

25 (f) The inability to obtain a driver's license pursuant to this  
26 section does not abrogate or diminish in any respect the legal  
27 requirement of every driver in this state to obey the motor vehicle  
28 laws of this state, including laws with respect to licensing, motor  
29 vehicle registration, and financial responsibility.

30 ~~(g) (1) The director shall determine the date that the department  
31 shall commence the issuance of driver's licenses pursuant to  
32 Section 12801.1.~~

33 ~~(2) The director shall submit a notice of the determination under  
34 paragraph (1) to the Secretary of State, and on the date of the  
35 receipt of that notice by the Secretary of State, this section is  
36 repealed.~~

37 *(g) On or before January 1, 2011, the director shall submit a*  
38 *notice to the Secretary of State that the department has commenced*  
39 *the issuance of driver's licenses pursuant to Section 12801.1, and*

1 *on the date of the receipt of that notice by the Secretary of State,*  
2 *this section is repealed.*

3 SEC. 6. Section 12801.5 is added to the Vehicle Code, to read:

4 12801.5. (a) Notwithstanding any other provision of law, a  
5 peace officer shall not detain or arrest a person solely on the belief  
6 that the person is an unlicensed driver, unless the officer has  
7 reasonable cause to believe that the person driving is under 16  
8 years of age.

9 (b) The inability to obtain a driver's license pursuant to this  
10 code does not abrogate or diminish in any respect the legal  
11 requirement of a driver in this state to obey the motor vehicle laws  
12 of this state, including laws with respect to licensing, motor vehicle  
13 registration, and financial responsibility.

14 (c) This section shall become operative upon the receipt by the  
15 Secretary of State of the notice specified in ~~paragraph (2)~~ of  
16 subdivision (g) of Section 12801.5, as amended by Section 5 of  
17 the act that added this section.

18 SEC. 7. Section 14610.7 of the Vehicle Code is amended to  
19 read:

20 14610.7. (a) It is a misdemeanor for a person to knowingly  
21 assist in obtaining a driver's license or identification card for a  
22 person whose presence in the United States is not authorized under  
23 federal law.

24 (b) This section is repealed on the date that the Secretary of  
25 State receives the notice described in ~~paragraph (2)~~ of subdivision  
26 (g) of Section 12801.5, as amended by Section 5 of the act that  
27 amended this section. The repeal of this section shall not be  
28 construed to forgive or legalize conduct prohibited by this section  
29 that was committed prior to the repeal date.

30 SEC. 8. Section 14610.7 is added to the Vehicle Code, to read:

31 14610.7. (a) (1) A person shall not knowingly assist in  
32 obtaining a driver's license, identification card, or any other  
33 document for another person in violation of Section 202 of Title  
34 II of the federal Real ID Act of 2005 (Public Law 109-13).

35 (2) A violation of paragraph (1) is a misdemeanor.

36 (b) This section is cumulative and shall not be construed as  
37 restricting the application of any other law. However, an act or  
38 omission punishable differently by this section and another section  
39 of this code or any other code shall not be punished under more  
40 than one of those sections.

(c) This section shall become operative upon the receipt by the Secretary of State of the notice specified in paragraph (2) of subdivision (g) of Section 12801.5, as amended by Section 5 of the act that added this section.

SEC. 9. Section 40000.11 of the Vehicle Code is amended to read:

40000.11. A violation of any of the following is a misdemeanor, and not an infraction:

(a) Division 5 (commencing with Section 11100), relating to occupational licensing and business regulations.

(b) Subdivision (a) of Section 12500, relating to unlicensed drivers.

(c) Subdivision (b) of Section 12515, relating to persons under 21 years of age driving, and the employment of those persons to drive, vehicles engaged in interstate commerce or transporting hazardous material.

(d) Section 12517, relating to a special driver's certificate to operate a schoolbus or school pupil activity bus.

(e) Subdivision (a) of Section 12519, relating to a special driver's certificate to operate a farm labor vehicle.

(f) Section 12520, relating to a special driver's certificate to operate a tow truck.

(g) Subdivision (b) of Section 12951, relating to refusal to display license.

(h) Section 13004, relating to unlawful use of an identification card.

(i) Section 13004.1, relating to identification documents.

(j) Sections 14601, 14601.1, 14601.2, and 14601.5, relating to driving with a suspended or revoked driver's license.

(k) Section 14604, relating to unlawful use of a vehicle.

(l) Section 14610, relating to unlawful use of a driver's license.

(m) Section 14610.1, relating to identification documents.

(n) Section 14610.7, relating to assisting in the unlawful attainment of identification documents.

(o) Section 15501, relating to use of false or fraudulent license by a minor.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty  
2 for a crime or infraction, within the meaning of Section 17556 of  
3 the Government Code, or changes the definition of a crime within  
4 the meaning of Section 6 of Article XIII B of the California  
5 Constitution.

6 SEC. 11. The provisions of this act are severable. If any  
7 provision of this act or its application is held invalid, that invalidity  
8 shall not affect other provisions or applications that can be given  
9 effect without the invalid provision or application.

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